

30 August 2010

Lorenz Pereira  
Project Manager, KRS Development Site  
DCPD – Metropolitan Planning Services  
GPO Box 2392  
Melbourne VIC 3001



Dear Lorenz

**Public Open Space Provision  
Kew Residential Services**

I refer to an email received from Brad Evans on the 26 August 2010, regarding the distribution of public open space for Kew Residential Services. As indicated on the endorsed Walker Development Plan - Kew Map (modified 3 June 2010), not less than a total of 30% of the subject land shall be set aside for public open space.

The following comments are provided in relation to the "Public Open Space Distribution Plan, Main Drive Kew" prepared by TGM Group Pty Ltd dated 26 October 2010:-

- The plans have been prepared by TGM Group Pty Ltd and checked by Brent O'Grady (licensed surveyor) who has prepared some of the Plans of Subdivision for Stages 1, 2 & 3. It should be noted that only Stages 1 & 2 have been certified.
- The plan indicates that the total site area is 268,900 square metres therefore 30% of the site area to be set aside for public open space is 80,670 square metres.
- The plan indicates that a total of 68,657 square metres has been or will be reserved as public open space. That is 12,013 square metres less than required by the endorsed Walker Development Plan.
- The public open space calculations provided by TGM Group Pty Ltd on the plan include land which is set aside as road reserve with an abuttal to the reserved areas of public open space. The total area of road reserve between the open space reserves and the back of kerb is 16,490 square metres. Walker has included this land within the road reservation as part of the public open space calculations.

The Subdivision Act 1988 provides a definition of public open space as follows:-

*"Public open space" means land set aside in a plan or land in a plan zoned or reserved under a planning scheme -*

- (a) For public recreation or public resort; or*
- (b) As parklands; or*
- (c) For similar purposes.*

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It is considered that the areas of road reserve included in the public open space calculations are not land set aside on a plan for public open space and should not be included in the calculation of public open space.

Section 20 of the Subdivision Act 1988 states:

*20(1) A Council must set aside for public open space any land which is vested in the Council for that purpose.*

It is considered that land which is reserved as road has not been set aside for public open space and has not been vested in Council for that purpose. A road reserve is not usable as public open space. Therefore it is clearly evident that any areas of road reservation should not be included in the calculation of the public open space provision.

Based on the figures provided by TGM Group Pty Ltd, only 18.6% of the total site area has been, or will be set aside as a reserve for public open space on the subdivision plans for the entire site. Council considers this to be unacceptable when the endorsed Walker Development Plan - Kew Map (modified 3 June 2010) shows that 30% of the land is required to be set aside as public open space. Walkers must be required to provide the additional public open space in accordance with the requirements of the endorsed Walker Development Plan.

Please confirm the following:

1. The department fully agrees with Council's view that the land set aside as road reserve does not qualify as public open space.
2. That the land set aside as road reserve cannot be included in the 30% calculation.
3. That the department will require Walker Corporation to prepare an open space plan demonstrating how the requirement of 30% public open space can be met without relying upon road reserves prior to granting any further approvals on this site.

Should you wish to discuss the matter further, please do not hesitate to contact me on 9278-4800 or alternatively, [Phillip.Storer@boroondara.vic.gov.au](mailto:Phillip.Storer@boroondara.vic.gov.au).

Yours sincerely



**Phillip Storer**  
**Director City Development & Amenity**

Cc via email: Lorenz Pereira – Department Planning & Community Development  
Ray Osborne/John Hawker – Heritage Victoria  
Teresa Rados – Major Projects Victoria  
Brad Evans - Walkers

